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November 14, 2006

BY ELECTRONIC FILING

The Honorable Viktor V. Pohorelsky
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Linde, et al. v. Arab Bank, PLC, 04-2799 (NG) (VVP) and related cases*
Plaintiffs' Motion to Compel Production of Documents

This firm represents defendant Arab Bank plc (the "Bank") in the above-referenced actions. We write in response to Gary Osen's November 8, 2006 letter seeking an order compelling production of documents (the "November 8 Motion") located in the United States related to fifteen entities. The Bank's obligations to produce documents concerning these particular entities is governed by the March 3, 2006 Document Production Order (the "March 3 Order"), which modified an earlier request by plaintiffs to produce documents concerning these entities.

Plaintiffs have not submitted a new Rule 26 request for production of these documents to the Bank. The November 8 Motion, therefore, is a motion to compel in name only, as plaintiffs are, in fact, seeking to modify the March 3 Order. Given that Local Rule 6.3 provides that any such motion to re-argue or reconsider an order must be made within ten days of entry of the order, plaintiffs' motion is out of time, and properly ought to be rejected by the Court.

The Bank's position is not intended to be overly formulaic: the March 3 Order was rendered after extensive oral argument and motion practice concerning plaintiffs' First Joint Request for Production of Documents. Not surprisingly given the extent of the argument and pleadings, the March 3 Order did not adopt those requests whole-cloth. Instead, the Court

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narrowed the scope of production in many pertinent respects, including relieving the Bank of any burden to “conduct research or investigation to otherwise identify martyrs or their family members.” (March 3 Order at ¶ 4.)

Even if the November 8 Motion were filed in time, plaintiffs have not satisfied the requirements to renew or re-argue the Court’s earlier rulings: they have offered no facts that the Court overlooked, and no controlling law that the Court misapplied. Instead, they ask the Court to “clarify” the March 3 Order, on the grounds that the order “would have required production” of these documents. This attempt is nothing more than a “second bite at the apple” for a party dissatisfied with a court’s ruling,” and does not satisfy the standards for reconsideration. *Pannonia Farms, Inc. v. USA Cable*, No. 03 Civ. 7841, 2004 WL 1794504, at *2 (S.D.N.Y. Aug. 10, 2004).

The Bank has produced all records maintained in the ordinary course of business in the United States responsive to the March 3 Order. The Bank has repeatedly instructed plaintiffs to use the proper procedures governing discovery, including formal document requests and interrogatories, as this process will ensure that the Bank has all of the time and consideration provided by the rules. Though they had ample time to make such a request, and the permissible time to ask the Court to modify its March 3 Order (i.e., within 10 business days of the date of entry), the plaintiffs have chosen, months later, to make an ill-considered motion to revise a well-reasoned decision by this Court, and disguised it as a motion to compel.

The Court has already ruled as to the scope of the Bank’s production obligations concerning these fifteen entities. For the foregoing reasons, the Bank asks that the Court reject plaintiffs’ motion for reconsideration, and instruct plaintiffs to comply with the procedures provided for in the Federal Rules of Civil Procedure governing discovery.

Respectfully submitted,



Ronald W. Zdrojeski

cc: All counsel on attached list

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BY ELECTRONIC DELIVERY:

IN LITTLE, ET AL. V. ARAB BANK, PLC, CV 04-5449 & BENNETT, ET AL. V. ARAB BANK, PLC, CV 05-3183 & ROTH, ET AL. V. ARAB BANK, PLC, CV 05-3738 & WEISS, ET. AL. V. ARAB BANK, PLC, CV 06-1623 & JESNER, ET. AL. V. ARAB BANK, PLC, CV 06-3869

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